

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

CONNIE J. RAINS and )  
MELANIE K. CLAXTON, )  
Plaintiffs, )  
v. ) No. 3:12-CV-515-TAV-CCS  
ISHAWAR PATEL, *et al.*, )  
Defendants. )

**MEMORANDUM AND ORDER**

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is Defendant Harry Patel's Motion to Compel [Doc. 14], which moves the Court to compel the Plaintiffs to respond to certain discovery and to permit Harry Patel to serve additional interrogatories.

The Court has reviewed this motion and the filings in this case, and the Court finds that the parties have failed to complete a discovery conference and file a discovery plan pursuant to Rule 26(f) of the Federal Rules of Civil Procedure.<sup>1</sup> Discovery cannot be taken prior to conducting a conference and filing a discovery plan pursuant to Rule 26(f). See Fed. R. Civ. P. 26(d). Further, the Court finds that counsel for Mr. Patel has failed to certify that he conferred with counsel for the Plaintiffs, in good faith, prior to filing the instant motion, and therefore, the Court finds that the Motion to Compel does not comply with Rule 37(a)(1).

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<sup>1</sup> The Court has reviewed the docket of this case and finds no discovery plan has been filed. Thus, even if the parties have conducted a conference, they have failed to file a discovery plan, as is required by Rule 26(f)(3).

Because the Motion to Compel does not comply with the Federal Rules of Civil Procedure, it [Doc. 14] is **DENIED WITHOUT PREJUDICE**. The parties **SHALL CONDUCT** a discovery conference and file a discovery plan on or before **May 2, 2014**. Upon completing their discovery plan, the parties are encouraged to cooperate and work diligently in completing discovery to ensure the “just, speedy, and inexpensive” disposition of this matter. See Fed. R. Civ. P. 1.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge